

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, February 3, 2009
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Livengood called the meeting to order at 6:00 PM. City Clerk Lavelle called the roll.

PRESENT: Mayor Livengood, Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

ABSENT: Councilmembers Gomez and Giordano were absent at Roll Call. Councilmember Giordano arrived at 6:01 PM. Councilmember Gomez arrived at 6:20 PM.

CLOSED SESSION

Mayor Livengood stated the City Council would convene to Closed Session to discuss labor negotiations with employee groups: Milpitas Professional and Technical Group (ProTech), Mid-Management and Confidential Unit (LIUNA), Milpitas Police Officers Association (MPOA), and International Association of Firefighters (IAFF).

City Council convened in Open Session at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT

None

PLEDGE

Boy Scouts Troop No. 92 presented colors and led all in the Pledge of Allegiance.

MINUTES

Motion: to approve the City Council meeting minutes of January 20, 2009

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendar/Schedule of Meetings for February 2009, as amended

City Manager Tom Williams announced the addition of Rules Committee meetings on Fridays, February 6 and 20 at 4:00 PM. No Finance Subcommittee was scheduled in February.

Councilmember Giordano noted that the Chamber Board meeting should be removed from calendars.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

PUBLIC FORUM

None

ANNOUNCEMENTS

Mayor Livengood reported that he had received phone calls about lengthy power outages during the previous four to five days. He asked staff to contact PG&E and report to Council about what was going on. He offered thanks to outgoing Fire Chief Clare Frank and gave appreciation to her for her service to the City and wished her best of luck in her future.

Councilmember Polanski reminded everyone about the Town Hall meeting on Thursday, February 5 at 7:30 PM at the Community Center, hosted by the Emergency Preparedness Commission and Community Advisory Commission. She thanked department heads in advance who committed to attend. Lastly, she requested a report in March or April on tree planting activity city-wide and an update on the response to that program.

Councilmember Giordano asked for an update on the County's Valley Medical Center project in Milpitas.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

*5. Change Order No. 13 and
Resolution to Accept Main
Sewage Pump Station Project

Authorized the City Engineer to execute Contract Change Order No. 13 with Anderson Pacific Engineering Construction, in the amount of \$2,630; and adopted Resolution No. 7829 granting initial acceptance of Project No. 6103, subject to the one year warranty period, and reduce the contractor's faithful performance bond to \$947,066.

*6. Agreement with West Yost
& Associates

Approved and authorized the City Manager to execute the agreement with West Yost & Associates, subject to approval as to form by the City Attorney.

*7. Bid Award to Cummings
West Inc.

Awarded the bid for diesel retrofit work to the lowest responsible bidder and authorized the City Manager to execute a contract with Cummings West, Inc. for the not-to-exceed amount of \$43,723.68 including sales tax, subject to approval as to form by the City Attorney. The purpose was to retrofit 60% of the 1988 to 2002 diesel fleet with electro mechanical particulate reduction devices by December 31, 2009, per state law.

PUBLIC HEARING

1. Water and Sewer Rate
Adjustments for FY 2010 and
FY2011

Utility Engineer Kathleen Phalen presented FY 2009-10 and FY 2010-11 water and sewer rate analysis and cost projections.

Two annual 9% water and sewer rate increases would be necessary due to pass-through costs for steep increases in water prices from the City's wholesalers and for infrastructure maintenance costs. Costs for water had increased 32% since 2005 and sewer treatment, nearly 100%. Anticipated double digit wholesale rate increases were predicted for the next five years. Water expenditure projections over five years were provided overhead for the Council. City costs stayed relatively even over five years.

Ms. Phalen reviewed the philosophy of managing the utility funds as enterprises, like a private business. Further rate increases were very likely in subsequent years, primarily due to the increasing wholesale costs from the San Francisco Public Utility Commission and the Santa Clara Valley Water District.

Next, City Engineer Greg Armendariz addressed the Council to detail the cost driving factors, spurring the mentioned pass-through costs. He reviewed in detail the factors

pertaining to the two suppliers, SFPUC and SCVWD, along with the local Water Pollution Control Plant in San Jose. He identified City seismic retrofit needs also. Drought might become a major factor for water this year and future years. The WPCP was 50 years old so there was a \$1 billion master plan for an upgrade. Retrofit of the pump stations was due as well.

Staff then reviewed the steps required by Council, following this meeting. March 20, 2009 was announced as the corrected date for the approximate final date to mail out the Proposition 218 notices to ratepayers. She identified Tuesday, May 5, 2009 as the Public Hearing date for the rate increase proposal and Council adoption of the ordinances. Timing of ordinance effective dates and the billing cycle timing, over an eight-week period, was detailed.

Vice Mayor McHugh thought there might be merit in spreading out the rate increases over three to four years, but based on staff comments at this meeting, with the anticipated additional rate increases in future years, that was not feasible. He asked for staff concurrence on that, and he received affirmatively. Ms. Phalen answered a question about lower rates for Santa Clara County at Ed Levin Park in the Milpitas hills. It had to do with an agreement the City had with the County. The Vice Mayor suggested recycled water use could be appropriate and cheaper at that park, while staff identified that infrastructure not presently built would be needed up there to deliver recycled water.

Councilmember Giordano reported that the Finance Subcommittee discussed the tiered rate structure for water. Staff noted constraints on first tier rates (i.e. not to sell product for less than wholesale cost). The effect of increasing the second tier more than 9% would not yield enough increased revenue to cover expenses. Ms. Giordano noted that City of Milpitas offered lower rates than many other cities at this time.

Mayor Livengood suggested including the eight City comparison information into the mailer that was required to go out to all customers.

Councilmember Polanski asked why the reserves went down so much. There were not sufficient revenues to cover the increased costs of water and sewer treatment, staff replied. Prior analysis and rate increases were only projected to cover through June 2007, not through 2009. No increases were adopted since the last rate analysis. Ms. Polanski asked about rationing of water and was seeking recommendations. She wanted to ensure that those who had, in fact, conserved over many years were factored in to any rationing plan and not to punish those customers for their efforts.

Councilmember Polanski spoke of the increases proposed: it was “a big chunk of change” for families to pay out every year. As noted in the past, it could be easier to budget every month, rather than over two months’ time.

Mayor Livengood supported Ms. Polanski’s comments about paying attention to those who have conserved water, when considering rationing of water resources.

Councilmember Gomez asked staff if the chart included other cities. It displayed only actual rates, not the proposed increases, for those cities compared to Milpitas. Most of those would likely seek increases too, staff felt, for the same reasons as Milpitas. He asked why two years instead of three or more for the consideration of rate increases? Ms. Phalen responded that it was up to the City Council.

Mayor Livengood opened the public hearing for comments.

Speaker:

Rob Means, Milpitas resident, was surprised to see so few people at the meeting, with such an important subject on the agenda. He encouraged Council to pass this plan, to have the water lines upgraded and improved, as well as the sewer improvements. He’d heard about a recent 12-inch water main that broke in the City. Improvements were

good investments for the public and went with the City's standards for the community.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

Councilmember Polanski asked questions about methods for submitting protest votes and that e-mail would not be accepted this year. Staff noted identifying the property owner with all correct information was difficult by email and written protests seek a signature from the property owner. City Attorney Ogaz further supported the methods for providing a protest vote to the City Clerk.

Vice Mayor McHugh assumed controls were in place that protest votes were kept in a secure place, and no challenges were warranted. The City Clerk confirmed that protest ballots were maintained under lock and key in her office.

City Attorney Mike Ogaz read the title aloud of Ordinance No. 120.45 "An Ordinance of the City of Milpitas Amending Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges and Deposits for Water Service and Meter Tests."

(2) Motion: Waive the first reading beyond the title of Ordinance No. 120.45

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(3) Motion: Introduce Ordinance No. 120.45 regarding water and recycled water rates

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

City Attorney Mike Ogaz read the title aloud of Ordinance No. 208.44 "An Ordinance of the City of Milpitas Amending Chapter 2 of Title VIII of the Milpitas Municipal Code Relating to Sewer Service Charges."

(4) Motion: to waive the first reading beyond the title of Ordinance No. 208.44

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

(5) Motion: to introduce Ordinance No. 208.44 regarding sewer rates

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

(6) Motion: to direct staff to mail Prop 218 notices, including on the mailed notice information about neighboring eight cities as provided at this meeting

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

(7) Motion: move to set May 5, 2009 as the public hearing date and for adoption of two rate adjustment ordinances

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

(8) Motion: direct staff to study and report back on the cost and longterm payback period, including possible renegotiating terms of the agreement, for the option of offering recycled water service at the County's Ed Levin Park in the Milpitas hills, and infrastructure needed

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

UNFINISHED BUSINESS

2. Staff Report on the Alviso Adobe Renovation Project, CIP No. 5055

City Engineer Greg Armendariz provided the Council with an update on the status of the Alviso Adobe Historical building and site renovation project. He displayed the alternatives for entry to the site on Calaveras Rd, near Piedmont. There could be a driveway off Alviso Adobe Ct. or a vehicular bridge built to enter the Adobe property. He also gave an overview of the project budget.

A community meeting would be scheduled for concluding the Environmental Impact Report on the project, being prepared presently.

Various grants were pursued and obtained for the project, with a \$2,408,185 total estimate to date for project costs. \$708,185 was the amount actually received to date. Mr. Armendariz lastly reviewed the project schedule and dates for completion.

Councilmember Gomez stepped away from dais at 8:06 PM.

Councilmember Giordano asked when renovation could be completed. Staff responded that at the CIP review process, when the City's budget was considered in the spring, would be the time for detailing further costs necessary in the next Phases of the project.

(1) Motion: to receive verbal progress report from staff on the historic Alviso Adobe Renovation Project

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

(2) Motion: to approve and authorize the City Manager to execute a grant funding agreement with Santa Clara County in the amount of \$85,000 for Project No. 5055, subject to approval as to form by the City Attorney

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

(3) Motion: to approve and authorize the City Manager to execute Addendum No. 1 to the Agreement with the Santa Clara County Open Space Authority, for Project No. 5055, subject to approval as to form by the City Attorney

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER

Mayor/Agency Chair Livengood called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:09 PM.

ROLL CALL

PRESENT: Chair/Mayor Livengood, Vice Chair/Vice Mayor McHugh, Agency/Councilmembers Giordano, Gomez and Polanski

ABSENT: Councilmember Gomez was absent at Agency Roll Call and returned to the dais at 8:12 PM.

RA 2. MINUTES

Motion: to approve the Agency meeting minutes of January 20, 2009

Motion/Second: Vice Chair/Vice Mayor McHugh / Agency/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

RA 3. Agenda Approval and Consent Calendar

Motion: to approve the agenda and consent calendar item (*)

Motion/Second: Agency/Councilmember Giordano / Agency/Councilmember Polanski

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

Mr. Gomez returned to the Council Chambers following item RA3 and prior to the start of presentation on Item No. RA4.

RA 4. FY2008-09 Mid Year Budget Adjustment

Finance Director Emma Karlen reported to the Agency/Council an overview of the current Fiscal Year's budget and the six budget adjustment requests from City departments. \$50,000 was the total fiscal impact of the changes.

Mayor Livengood had stepped away from the Council Chambers at 8:13 PM.

Motion: to approve Fiscal Year 2008-09 mid-year budget appropriations, itemized on the budget change form, reflecting six specific requested and justified appropriations

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

RA 5. Financial Status Report
through 12/31/08

Finance Director Emma Karlen provided a verbal report to the Agency/Council on the status of the City's budget and revenues. She provided the currently increasing unemployment rates in the Bay Area and in Milpitas specifically. Ms. Karlen reported some of the Association of Bay Area Government's economic outlook, which was in general negative for the immediate future. ABAG predicted 18,000 job losses in Santa Clara County.

She displayed General Fund revenues for the six months ended 12/31/08 with about 47% received v. budgeted amount. The newly revised General Fund revenues predicted at \$65.29 million represented a decrease of \$1.42 million v. original adopted budget. Meanwhile, expenditures were about 47.4% of the budgeted amount, so some savings were realized so far. At this date, a shortfall was projected of \$5.56 million, anticipated to be paid by Redevelopment Agency loan payment.

Mayor Livengood returned to the dais at 8:15 PM.

Councilmember Gomez looked at revenue v. expenditures information (on charts) and noted that the state was not helping. He asked the Finance Director what the state was going to do to fix the problem. Ms. Karlen would come up with a revised budget, cost cutting and increased sales tax revenue.

Councilmember Gomez remarked that Milpitas was not alone. Staff should look at what other cities were doing and get ideas from neighboring communities, including School District revenue issues. He asked about the anticipated joint meeting between the MUSD and the City Council.

City Manager Williams responded that staff could not report a date certain yet, but were working on scheduling it with the consultant, following an upcoming joint meeting of the MUSD/City communication committee next month in March.

Councilmember Polanski had additional comments about the state budget.

Mayor Livengood asked about the RDA use of fund balance, and the effect of bringing it to \$30 million. He wondered if staff expected that kind of draw down in future, and Ms. Karlen said that was unknown, per the state budget situation.

Motion: to receive financial status report for the six months ended December 31, 2008

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

Finance Director Karlen brought key dates for the upcoming budget cycle to the Councilmembers' attention, for the spring. May 12, 2009 was set as the budget public hearing, with June 2 as the date for final budget adoption.

*RA 6. Investment Status Report

Received the investment report for the quarter ended December 31, 2008.

***RA 7. Change Order and Resolution Granting Initial Acceptance of Milpitas Library**

1. Approved the final balancing contract change order with S.J. Amoroso.
2. Adopted Joint Resolution No. 7827/RA319 granting initial acceptance of the new Milpitas Library, Project No. 8162.

*RA 8. Granting Initial
Acceptance of Project No. 8194

Adopted Joint Resolution No. 7828/RA320 of City Council/Redevelopment Agency
granting initial acceptance of the Street Crack Seal Project FY 2008-09, Project No. 8194.

RA 9. ADJOURNMENT

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 8:32 PM.

REPORT

3. Councilmember Giordano request for Salary Survey

Councilmember Giordano pointed out the current salary of City Councilmembers, which was about \$800 per month she suggested. She wanted to know the last time the City Council looked at its salary rate. It was time to look at it, to review what the law allowed, and wanted a report back to Council in a memo format.

Councilmember Polanski asked to consider whether other cities were full time Council or Mayor positions or not, in such a survey. She believed the City could only increase salary at a maximum of 5% per year or so, as a general law city. Look at comparisons to nearby cities. She noted there were compensations for attending meetings, for cell phones and car mileage too for this part time position.

Councilmember Gomez stated he had no problem with this request for information.

Motion: to direct the City Manager to conduct a salary survey of Mayors and City Councilmembers of equivalent sized cities throughout the Bay Area, and report back to Council in a written memo

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

ORDINANCE

4. Introduce Ordinance No.17.16

City Attorney Mike Ogaz explained corrections needed to the schedule of misdemeanors, with typos and other errors to be clarified and corrected for misnumbering. He identified several of numeric citation corrections.

City Attorney Ogaz read the title aloud of Ordinance No. 17.1.6 “An Ordinance of the City of Milpitas Amending Section 4.09-3 of Chapter 1 of Title I of the Milpitas Municipal Code.”

(1) Motion: to waive the first reading beyond the title of Ordinance No. 17.16

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to introduce Ordinance No. 17.16

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

RESOLUTION

One resolution was adopted on the consent calendar.

BIDS & CONTRACTS

Two items were approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:38 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on February 17, 2009.

Mary Lavelle, City Clerk